

State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

ERRATA #1
to
Request for Proposal, Sample Contract, and Concession Proposal (DPR 398)
for
Vehicle Day Use Concession
at
Carlsbad, South Carlsbad, San Elijo, Cardiff, Torrey Pines, and Silver Strand State
Beaches

Following are changes to the RFP, including the Sample Contract and Concession Proposal form (DPR 398):

Change to the Request for Proposals

1. RFP Page 4, Section 1.3 CONTRACT SUMMARY, item 1: Install and maintain at least one (1) pay parking machines ("APM") as a trade fixture for use by the visitor in State-**approved** pay center areas within each of the parking lots identified in this RFP. The equipment shall remain property of the Concessionaire.
2. RFP Page 4, Section 1.3 CONTRACT SUMMARY, item 3: Honor State Park Passes which include ~~but may not be limited to:~~ VIP Statewide, VIP District, Annual Day Use, Golden Poppy Annual Day Use, Disabled Veteran/POW, Disabled Discount, Golden Bear, Limited Golden Bear, Complimentary Day, and the California State Parks Foundation Day, **passes** ~~and any other bonafide State Park day use pass.~~
3. RFP Page 4, Section 1.3 CONTRACT SUMMARY, item 6: **Facilitate a *park and pay* system at each location and provide the park visitor a smooth operation with minimum delays, which may include** ~~Provide concession staff to operate *be present at* entrance station kiosks *or pay stations* locations during operating hours to support expeditious fee collection efforts on the heavy use weekends beginning the Saturday of Memorial Day Weekend through Monday of Labor Day Weekend. *plus up to eight (8) additional days*~~

~~per year at each day use location with an entrance station. All other day use lots may be managed by APMs.~~

4. RFP Page 14-15, Section B Facility Plan

Describe the fee collection equipment to be installed **and the proposed locations** at each of the park unit parking lots **to best facilitate a park and pay system**. Include cost of equipment and a timeline for installation. The goal of this RFP is to commence fee collection **through a park and pay system** no later than Friday, May 27, 2011. The State may issue an Early Entry Permit prior to final contract execution in order to facilitate implementation of the Plan. Provide sample of signage that is proposed for the fee collection operation.

5. RFP Page 18, Section 3 THE PROPOSAL, II PROPOSAL INFORMATION,

A. Operations Plan, add the following element: **Marketing and Advertising**
The marketing program should include, but is not limited to, proposed approaches, methodologies, media, advertising materials, schedules, and budget allocations.

6. All references to the term RENT or RENTAL shall be changed to FEE COLLECTIONS.

Changes to the Sample Contract

1. Sample Contract Page 2, Section 1 DESCRIPTION OF PREMISES, replace second paragraph:

The Concessionaire is not granted a possessory interest in the State's Premises for this concession operation. The Concessionaire's interest granted herein is for the purpose of facilitating a park and pay system within the State's Premises for public benefit as directed and agreed upon by State. This Contract is not intended to confer a third party beneficiary status to any member of the public who is benefited by the terms of this Contract.

2. Sample Contract Page 3, Section 4 RENT **FEE COLLECTION:**

Concessionaire shall pay, without offset, deduction, prior notice, or demand, as "Minimum Annual Rent **Fees Guarantee**", **which may be achieved collectively**, the sum of Ninety-Five Thousand Dollars (\$95,000) for Carlsbad State Beach, One Hundred Fifty One Thousand Dollars (\$151,000) for South Carlsbad State Beach, Twenty Two Thousand Dollars (\$22,000) for San Elijo State Beach, One Hundred Eighty Six Thousand Dollars (\$186,000) for Cardiff State Beach, One Million One Hundred Thousand Dollars (\$1,100,000) for Torrey Pines State Beach, and Five Hundred Ten Thousand Dollars (\$510,000) for Silver Strand State Beach or Eighty percent (80%) of gross receipts **all fee collections**, whichever sum is greater.

Concessionaire shall ~~make payment~~ **remit** of Minimum Annual **Fees Rent Guarantee** and other payments to State in ~~lawful money of the United States~~. However, if any payment made by a check, draft, or money order is returned to State due to insufficient funds or otherwise, **daily via wire or electronic transfer, identified by park unit, except weekends in which case transfers must occur the first business day following the weekend or holiday**. State shall have the right, at any time after the return, upon written notice to Concessionaire, to require Concessionaire to make all subsequent payments in cash or by cashier's or certified check.

Beginning with the fifteenth (15th) day of the month following the commencement of Day Use concession collection activities, and on or before the fifteenth (15th) day of each month thereafter, Concessionaire shall furnish to State a verified statement of the concession's gross receipts **total fee collections** for the preceding month **including the corresponding remittance to State for the reporting period**, with an itemized amount equal to one day use fee per State issued complimentary parking pass deducted from the gross receipts as described in Section 5 Use of Premises. Such statement shall be submitted on Form DPR 54, Concessionaire's Monthly Report of Operation, attached hereto as **Exhibit C**, or in a format previously approved by the State, and shall specify the current period and cumulative total of gross receipts **fee**

collections for the concession through the end of the preceding month for the then current Contract Year. Concessionaire shall also provide such statement for periods of non-operation. ~~Concurrent with such monthly statement, the Concessionaire shall pay to State the appropriate rental fee for the preceding calendar month as prescribed above. Payments to State shall be made to the order of the Department of Parks and Recreation and delivered to the District Office identified herein below or at such other location as may from time to time be designated by State.~~ If, at the end of the Contract Year, the total of monthly percentage rental **fee collection** payments made (or due) during that Contract Year is less than the Minimum Annual **Fee** Rent-Guarantee required for that Contract Year, the difference shall be remitted to State with the last monthly sales statement for the Contract Year. **Fee Collection** Payments must be received by State on or before the fifteenth (15th) day of the month as described above. **daily via wire or electronic transfer, identified by park unit, except weekends in which case transfers must occur the first business day following the weekend or holiday.** Any late payment shall constitute a breach of contract, giving rise to State's remedies as set forth below. Further, any late payment will be subject to a late penalty consisting of an administrative charge on the late amount, calculated at the rate of five percent (5%) of the amount of the late payment or portion thereof. The parties agree that the late charge represents a fair and reasonable estimate of the costs State will incur because of late payment. Acceptance of the late charge by State shall not constitute a waiver of Concessionaire's default for the overdue amount, nor prevent State from exercising the other rights and remedies granted under this Contract. Concessionaire shall pay the late charge as additional rent with the next monthly rental payment **Concessionaire's Monthly Report of Operation, DPR 54.**

3. Sample Contract Page 5, Section 5 USE OF PREMISES:

Concessionaire shall install and maintain, within each State-**approved** pay center area at least one (1) pay parking machine ("APM") as a trade fixture **to facilitate park and pay** use by the visitor which shall remain property of the Concessionaire. The Concessionaire shall respond to trade fixture breakdowns and make any repairs or remove and replace any necessary components to provide for a fully operational machine within four (4) hours of notification by way of voice contact or verified receipt by way of electronic mail ("e-mail"), **and provide any necessary staffing on site to facilitate a smooth operation and collection of fees pending equipment repairs;** or pay damages to the State as additional rent at the rate of Two Hundred Dollars (\$200) per hour per affected parking lot location.

4. Sample Contract Page 6, Section 5 USE OF PREMISES:

Concessionaire shall honor State Park Passes which include ~~but may not be limited to:~~ VIP Statewide, VIP District, Annual Day Use, Golden Poppy Annual Day Use, Disabled Veteran/POW, Disabled Discount, Golden Bear, Limited Golden Bear, Complimentary Day, and the California State Parks Foundation Day **passes**, and ~~any other bonafide State Park day use pass~~ which may be verified by telephoning State Parks Southern Communications ("SURCOM") at (951) 443-2969. **Concessionaire agrees to work with State to develop a mutually agreeable system to track the usage of State Park Passes honored within the Premises.**

5. Sample Contract Page 6, Section 5 USE OF PREMISES:

Concessionaire shall **facilitate a park and pay system at each location and provide the park visitor a smooth operation with minimum delays which may include concession** staff to operate entrance station kiosk locations during operating hours on the heavy use weekends beginning the Saturday of Memorial Day Weekend through Monday of Labor Day Weekend. ~~plus up to~~

~~eight (8) additional days per year at each day use location with an entrance station kiosk.~~

6. Sample Contract Page 13, Section 15 TAXES:

A. By signing this Contract, Concessionaire acknowledges that occupancy interest and rights to do business on state property being offered Concessionaire by this Contract may create a possessory interest as that term is defined in Revenue and Taxation Code Section 107.6, which possessory interest may subject Concessionaire to liability for the payment of property taxes levied on such possessory interest.

B. Concessionaire agrees to pay all lawful taxes, assessments, or charges that at any time may be levied by the State, County, City, or any tax or assessment levying body upon any interest in or created by this Contract, with the exception of **or any** possessory right that Concessionaire may have in or to the Premises covered hereby, or the improvements thereon by reason of Concessionaire's use or occupancy thereof or otherwise, as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by Concessionaire in or about the Premises.

7. Sample Contract Page 14, Section 18 HOUSEKEEPING, MAINTENANCE, REPAIR AND REMOVAL, first paragraph:

During the term of this Contract at Concessionaire's own cost and expense, Concessionaire shall maintain and operate in, on, or adjacent to a distance of not less than ~~fifty (50) feet~~ fifteen **(15) feet**, from the personal property and equipment within the Premises, in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind.

Concessionaire shall remedy without delay any defective, dangerous, or unsanitary conditions.

8. Sample Contract Page 15, Section 19 UTILITIES AND SERVICES:

Concessionaire shall be responsible for all costs associated with the installation and provisions of all **additional** utilities necessary to and used in connection with the Premises.

9. All references to the term RENT or RENTAL shall be changed to FEE COLLECTIONS.

Change to the Concession Proposal (DPR 398)

On page 11, under Operations Plan, check the box requiring a marketing and advertising element under this plan

